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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,102	07/14/2003	Michael E. Davis	1000-1303	8600
7590	09/03/2004		EXAMINER	
Luis M. Ortiz P.O. Box 4484 Albuquerque, NM 87109			COCKS, JOSIAH C	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/620,102

Applicant(s)

DAVIS, MICHAEL E.

Examiner

Josiah Cocks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings filed 7/14/2003 are accepted by the examiner.

### *Information Disclosure Statement*

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-18 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,901,697 to Oliver, Jr. et al. ("*Oliver '697*") in view of U.S. Patent No. 6,006,743 to Shimek et al. ("*Shimek*").

*Oliver '697* discloses a portable artificial campfire device similar to that described in applicant's claims 1-18 and 29. In particular, *Oliver '697* discloses a burner element provided in a circular configuration and includes an entry port adapted for attachment to an adjustable gas valve and a surface having a plurality of orifices formed therein and dispersed throughout the surface of the burner element. *Oliver '697* also discloses an adjustable valve (38) that controls flame height and intensity through the orifices (see col. 6, lines 66-67), is adaptable for placement into existing campground facilities including campfire rings, and is connected to a pressurized fuel source (32).

*Oliver '697* possibly does not show that the plurality of orifices are of varying density.

*Shimek* teaches a portable burner in the same field of endeavor as *Oliver '697*. In *Shimek*, the burner includes different size jets and patterns, which are regarded as being of varying density (see Fig. 9).

Therefore, in regard to claims 1-18 and 28, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the burner of *Oliver '697* to incorporate the orifices of varying density as taught by *Shimek* to desirably produce an orifice pattern that produces more efficient burning (see *Shimek*, col. 4, lines 52-57).

5. Claims 19-27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Oliver '697* in view of *Shimek* as applied to the claims above, and further in view of U.S. Patent No. 3,027,888 to Fault et al. ("*Fault*").

*Oliver '697* in view of *Shimek* teach all the limitations of claims 19-27 and 29 except that the burner element is tubular steel formed in a spiral.

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*Fault* teaches a burner in the same field of endeavor as Oliver '697. In *Fault*, the burner element of the burner is formed as a spirally wound tube (44) (see col. 2, line 27). OFFICIAL NOTICE is taken as to the well-known use of steel for burner tubes.

Therefore, in regard to claims 19-27 and 29, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the burner element of *Oliver* '697 to be spiral shaped as taught by *Fault* as this shape gives a maximum heat output from a unit occupying a minimum of space (see *Fault*, col. 2, lines 49-53).

### ***Conclusion***

6. This action is made non-final. A THREE month shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) months from the mailing date of this communication.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Buckingham and Pappas are included to further show spiral shaped burners. Martin, Pedersen et al., Oliver '836, and Oliver '887 are included to further show portable campfire devices.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is


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(703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc  
August 31, 2004

  
JOSIAH COCKS  
PRIMARY EXAMINER  
ART UNIT 3749